

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JAMES A. DUFFIN,

Plaintiff,

-against-

9:08-CV-1342

LESTER N. WRIGHT, M.D., et al,

Defendants.

DECISION & ORDER

McAvoy, S.U.S.D.J.:

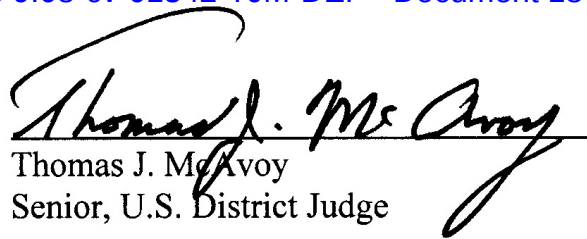
This action, brought pursuant to 42 U.S.C. § 1983, was referred by this Court to the Honorable David E. Peebles, United States Magistrate Judge, for a Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

No objections to the Report-Recommendation dated January 26, 2010 have been filed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice. Accordingly, this Court adopts the Report-Recommendation for the reasons stated therein.

It is therefore, **ORDERED** that defendants' motion to dismiss is **GRANTED** and Plaintiff's Complaint is **DISMISSED** with prejudice as to the DOCS and Dr. Wright in his official capacity, but with leave to amend with respect to Dr. Wright in his individual capacity within thirty days from the date of this Order.

IT IS SO ORDERED.

Dated: February 17, 2010


Thomas J. McAvoy
Senior, U.S. District Judge